

**In the United States Patent and Trademark Office**

Applicants: Laura L. Elsberg et al. Docket No.: 15,497  
Serial No.: 09/465,853 Group: 3761  
Confirmation No.: 9404 Examiner: J. Webb  
Filed: December 17, 1999 Date: January 14, 2003  
  
For: DISPOSABLE ABSORBENT ARTICLES HAVING A FIT PANEL AND AN INTEGRATED WAIST ADJUSTMENT MECHANISM

Box DAC  
Assistant Commissioner for Patents  
Washington, D.C. 20231

**PETITION FOR REVIVAL OF AN APPLICATION  
FOR PATENT ABANDONED UNINTENTIONALLY UNDER  
37 C.F.R. § 1.137(b)**

1. This application became abandoned on May 17, 2002.
2. This application became abandoned because the failure to prosecute was an unintentional delay. The entire delay in filing the required reply from the due date until the filing of this petition was unintentional 37 C.F.R. § 1.137(b)(3).
3. Response or action required

has been filed.  
 is attached.

4. Fee (37 C.F.R. 1.17(m))

FAX RECEIVED

Application status is:

JAN 14 2003

Small business entity--fee \$620.00  
 A statement is attached.  
 A statement was filed.  
 Other than small entity--fee \$1,300.00

PETITIONS OFFICE

5. Payment of fee

01/30/2003 HLE555 00000009 110875 [x] Authorization is hereby made to charge the amount of

01 FD:1453 1300.00 CH [x] \$620.00 [x] \$1,300.00

[x] to Deposit Account No. 11-0875  
[ ] to Credit Card as shown on the attached credit information authorization form PTO-2038.

A duplicate of this petition is attached.

15,497

- Because this petition is more than 3 months after the date the Office first notified the applicant that the application is abandoned, applicant additionally submits a showing as to how the delay between the date the applicant was first notified that the application is abandoned and the filing of this petition under 37 C.F.R. § 1.134(b) was unintentional. 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).
- Because this petition is more than 1 year after the date of abandonment of the application, applicant additionally submits further information as to when applicant (or applicant's representative) first became aware of the abandonment of the application, and a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant (or applicant's representative). 62 Fed. Reg. 53,131, 53,159 (Oct. 10, 1997).

SIGNATURE OF PERSON MAKING STATEMENT THAT  
ABANDONMENT WAS DUE TO AN UNINTENTIONAL DELAY

Date: January 14, 2003 Alyssa A. Dudkowski  
Alyssa A. Dudkowski  
Kimberly-Clark Worldwide, Inc.  
401 North Lake Street  
Neenah, WI 54956

SIGNATURE OF PRACTITIONER

Date: January 14, 2003 Alyssa A. Dudkowski  
Alyssa A. Dudkowski  
Reg. No.: 40,596  
Tel. No.: (920) 721-2433  
Kimberly-Clark Worldwide, Inc.  
401 North Lake Street  
Neenah, WI 54956

## PART B—ISSUE FEE TRANSMISSION

Complete and mail this form, together with applicable fees, to: Box ISSUE FEE  
Assistant Commissioner for Patents  
Washington, D.C. 20231

**MAILING INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE. Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Issue Fee Receipt, the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

JEFFREY B CURTIN  
KIMBERLY-CLARK WORLDWIDE INC  
401 NORTH LAKE STREET  
NEENAH WI 54956

QM12/0919

11-6-01

Note: The certificate of mailing below can only be used for domestic mailings of the Issue Fee Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

## Certificate of Mailing

I hereby certify that this Issue Fee Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

Barbara D. Miller

(Depositor's name)

November 6, 2001

(Signature)

(Date)

| APPLICATION NO.       | FILING DATE | TOTAL CLAIMS            | EXAMINER AND GROUP ART UNIT | DATE MAILED   |
|-----------------------|-------------|-------------------------|-----------------------------|---------------|
| 09/465,853            | 12/17/99    | 044                     | WEBB, J                     | 3761 09/19/01 |
| First Named Applicant | ELSBERG,    | 35 USC 154(b) term ext. | =                           | 0 Days.       |

TITLE OF INVENTION DISPOSABLE ABSORBENT ARTICLES HAVING A STRECH PANEL AND AN INTEGRATED WAIST SIZE ADJUSTMENT MECHANISM

| ATTY'S DOCKET NO. | CLASS-SUBCLASS | BATCH NO. | APPLN. TYPE | SMALL ENTITY | FEES DUE  | DATE DUE |
|-------------------|----------------|-----------|-------------|--------------|-----------|----------|
| 0 15497           | 604-386.000    | M16       | UTILITY     | NO           | \$1240.00 | 12/19/01 |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2), the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Jeffrey B Curtin

2 \_\_\_\_\_  
3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

## (A) NAME OF ASSIGNEE

Kimberly-Clark Worldwide

## (B) RESIDENCE: (CITY &amp; STATE OR COUNTRY)

Neenah, Wisconsin 54956

Please check the appropriate assignee category indicated below (will not be printed on the patent)

Individual  corporation or other private group entity  government

4a. The following fees are enclosed (make check payable to Commissioner of Patents and Trademarks):

Issue Fee  
 Advance Order - # of Copies \_\_\_\_\_

4b. The following fees or deficiency in these fees should be charged to:

DEPOSIT ACCOUNT NUMBER 11-0875  
(ENCLOSE AN EXTRA COPY OF THIS FORM)

Issue Fee  
 Advance Order - # of Copies 1

The COMMISSIONER OF PATENTS AND TRADEMARKS IS requested to apply the Issue Fee to the application identified above.

(Authorized Signature)

*Paul J. Lee*

(Date)

6 NOV 01

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

**Burden Hour Statement:** This form is estimated to take 0.2 hours to complete. Time will vary depending on the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND FEES AND THIS FORM TO: Box Issue Fee, Assistant Commissioner for Patents, Washington D.C. 20231

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

11-0875  
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JAN 06 2001

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11-0875  
RJOHNSON 00000001  
FC 1501  
FC 8001

TRANSMIT THIS FORM WITH FEE

 **Kimberly-Clark Corporation**  
 Neenah, Wisconsin  
 401 N. Lake Street  
 Neenah, Wisconsin 54956

Facsimile

|          | Name   | Company | Fax Number   |
|----------|--|---------|--------------|
| To:      | Tom Hawkins  | USPTO   | 703-305-4372 |
| Subject: | Application Number 09/465,853 filed December 17, 1999 of Laura L. Elsberg et al.;<br>KC Docket Number 15,497 |         |              |
|          | "Disposable Absorbent Articles Having A Fit Panel And An Integrated Waist Adjustment Mechanism"              |         |              |
| From:    | Alyssa A. Dudkowski  | Page:   | 1 of 6       |
| Dept:    | Legal Department   | Date:   | July 9, 2002 |
| Loc:     | Neenah, Wisconsin  | Time:   | 12:49 PM     |

Mr. Hawkins,

In response to a Notice of Abandonment, following documents are being faxed to you:

Request For Withdrawal of Abandonment – PTO Has No Evidence That  
Mailed Correspondence Received

FAX RECEIVED

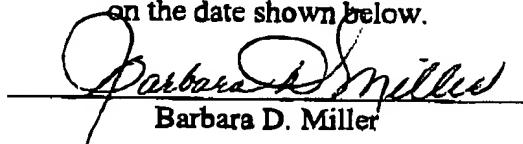
Statement Attesting To Mailing of PTO Correspondence Under 37CFR§1.8(a)

JAN 14 2003

Copy of Issue Fee Transmittal Mailed November 6, 2001

PETITIONS OFFICE

Copy of PC Master v3.04 Showing Receipt of Postcard 1/9/02

**CERTIFICATION OF FACSIMILE TRANSMISSION**I hereby certify that these papers are being transmitted by facsimile to the Patent and Trademark Office  
on the date shown below.
  
 Barbara D. Miller
July 9, 2002

Date

This facsimile is for the use of the addressee only and may contain privileged or confidential information that is exempt from disclosure under law. If you are not the addressee or responsible for delivering it to him or her, please know that dissemination, distribution, or copying of this facsimile is prohibited. If you have received this in error, please telephone us promptly and destroy the original.

If you have a problem with or a question about this facsimile, contact:  
**Name:** Barbara Miller      **Fax:** 920-721-3129      **Phone:** 920-721-2414

Practitioner's Docket No. 15.497

PATENT \*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Laura L. Elsberg et al. Date: July 9, 2002

Application No.: 09/465,853 Group No.: 3761

Filed: December 17, 1999 Examiner: J. Webb

For: DISPOSABLE ABSORBENT ARTICLES HAVING A FIT PANEL  
AND AN INTEGRATED WAIST ADJUSTMENT MECHANISM

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Assistant Commissioner for Patents  
Washington, D.C. 20231

JAN 14 2003

PETITIONS OFFICE

**REQUEST FOR WITHDRAWAL OF ABANDONMENT-- PTO HAS NO EVIDENCE  
THAT MAILED CORRESPONDENCE RECEIVED**

NOTE: 37 C.F.R. § 1.8(b) states:

(b) In the event that correspondence is considered timely filed by being mailed ... in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing ... of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
- (2) Supplies an additional copy of the previously mailed ... correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing....

**REQUEST**

1. Applicant requests that the abandonment in this case be withdrawn.

**PROMPTNESS OF THIS SUBMISSION**

This information is being submitted promptly after applicant has learned of the abandonment on the basis of:

- [ x ] the Notice of Abandonment mailed by the PTO on May 17, 2002
- [ ] applicant's own procedures in monitoring the progress of this case.

**SUBMISSION****2. Submitted herewith is:**

(check and complete each appropriate item below)

A copy of the page of the response mailed on November 6, 2001, showing a Certificate of Mailing executed on November 6, 2001.

A copy of the Kimberly-Clark's PCMaster v3.04 – Master Data Center print screen indicating the USPTO postcard receipt stamp dated January 9, 2002. (Postcard has been separated from the file).

NOTE: "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie evidence of receipt* in the PTO of all the items listed thereon on the date stamped thereon by the PTO." § 503, M.P.E.P., 7th Edition.

A copy of the complete response previously filed (i.e., the Issue Fee Transmittal).

A copy of the cancelled check(s) referring to the response identified above.

A copy of the attorney's Deposit Account Statement, in which the item corresponding to the response referred to above is noted.

**STATEMENT****3. Attached hereto is a statement attesting to the timely transmission of the correspondence referred to above based on:**

personal knowledge

a showing believed to be satisfactory to the Commissioner

**4. Please proceed with further examination of this application on the basis of:**

The original papers filed, which have now reached the appropriate area of the PTO.

**AND/OR**

The attached copy of the papers originally filed.

**REQUEST FOR WITHDRAWAL OF ABANDONMENT****5. Acknowledgement of the active status of this application is respectfully requested.**

Alyssa A. Dukowski  
Alyssa A. Dukowski, Reg. No.: 40,596  
Tel. No.: (920) 721-2433  
401 N. Lake Street  
Neenah, WI 54957-0349  
Customer No.: 23556

**FORM 8-2.1 Statement Attesting to Mailing of PTO Correspondence under 37 C.F.R. § 1.8(a)****Practitioner's Docket No. 15,497****PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Laura L. Eisberg et al.

Application No.: 09/465,853

Group No.: 3761

**FAX RECEIVED**

Filed: December 17, 1999

Examiner: J. Webb

**JAN 14 2003**For: DISPOSABLE ABSORBENT ARTICLES HAVING A FIT PANEL AND AN  
INTEGRATED WAIST ADJUSTMENT MECHANISM**PETITIONS OFFICE**Assistant Commissioner for Patents  
Washington, D.C. 20231**STATEMENT ATTESTING TO MAILING OF P.T.O. CORRESPONDENCE UNDER 37 C.F.R. § 1.8(a)**

I state that on November 6, 2001, I mailed the original of the attached copy of

**Issue Fee Transmittal**

Dated November 6, 2001

and Certificate of Mailing by first class mail, with sufficient postage, in an envelope addressed to the  
Assistant Commissioner for Patents, Washington, D.C. 20231.  
Barbara D. Miller

Date: July 9, 2002

Complete and mail this form, together with applicable fees, to:

Box ISSUE FEE

Assistant Commissioner for Patents  
Washington, D.C. 20231

**MAILING INSTRUCTIONS:** This form should be used for transmitting the ISSUE FEE. Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Issue Fee Receipt, the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1)

JEFFREY B CURTIN  
KIMBERLY-CLARK WORLDWIDE INC  
401 NORTH LAKE STREET  
NEENAH WI 54956

QM12/0919

Note: The certificate of mailing below can only be used for domestic mailings of the Issue Fee Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing.

**Certificate of Mailing**

I hereby certify that this Issue Fee Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Box Issue Fee address above on the date indicated below.

Barbara D. Miller

(Depositor's name)

*Barbara D. Miller* (Signature)

November 6, 2001

(Date)

| APPLICATION NO.       | FILING DATE | TOTAL CLAIMS            | EXAMINER AND GROUP ART UNIT | DATE MAILED   |
|-----------------------|-------------|-------------------------|-----------------------------|---------------|
| 09/465,853            | 12/17/99    | 044                     | WEBB, J                     | 3761 09/19/01 |
| First Named Applicant | ELSBERG,    | 35 USC 154(b) term ext. | =                           | 0 Days.       |

TITLE OF INVENTION  
DISPOSABLE ABSORBENT ARTICLES HAVING A STRECH PANEL AND AN INTEGRATED WAIST SIZE ADJUSTMENT MECHANISM

| ATTY'S DOCKET NO. | CLASS-SUBCLASS | BATCH NO. | APPLN. TYPE | SMALL ENTITY | FEES DUE  | DATE DUE |
|-------------------|----------------|-----------|-------------|--------------|-----------|----------|
| 0 15497           | 604-386.000    | M16       | UTILITY     | NO           | \$1240.00 | 12/19/01 |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). Use of PTO form(s) and Customer Number are recommended, but not required.

Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

"Fee Address" indication (or "Fee Address" indication form PTO/SB/47) attached.

2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 Jeffrey B Curtin

2 \_\_\_\_\_

3 \_\_\_\_\_

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the PTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

Kimberly-Clark Worldwide

(B) RESIDENCE: (CITY &amp; STATE OR COUNTRY)

Neenah, Wisconsin 54956

Please check the appropriate assignee category indicated below (will not be printed on the patent)

... individual  corporation or other private group entity  government

4a. The following fees are enclosed (make check payable to Commissioner of Patents and Trademarks):

 Issue Fee Advance Order - # of Copies \_\_\_\_\_

4b. The following fees or deficiency in these fees should be charged to:

DEPOSIT ACCOUNT NUMBER 11-0875

(ENCLOSE AN EXTRA COPY OF THIS FORM)

 Issue Fee Advance Order - # of Copies 1

The COMMISSIONER OF PATENTS AND TRADEMARKS IS requested to apply the Issue Fee to the application identified above.

(Authorized Signature)

*Paul J. Lee*

(Date)

6 NOV 01

NOTE: The Issue Fee will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the Patent and Trademark Office.

**Burden Hour Statement:** This form is estimated to take 0.2 hours to complete. Time will vary depending on the needs of the individual case. Any comments on the amount of time required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, D.C. 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND FEES AND THIS FORM TO: Box Issue Fee, Assistant Commissioner for Patents, Washington D.C. 20231

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TRANSMIT THIS FORM WITH FEE

PPMaster v.3.01 - Faster Data Center [Patent]

|                |                                 |                  |                          |
|----------------|---------------------------------|------------------|--------------------------|
| Case Number:   | 15497                           | Attorney:        | DUDKOWSKI AA             |
| Country:       | United States                   | Office:          | Infant Care              |
| Case Type:     | Regular                         | Patent Division: | INFANT CARE              |
| Relation Type: | CPO-Continuing Prosecution Appl | State Division:  | INFANT CARE              |
| Filing Type:   | National                        | Organization:    | KIMBERLY-CLARK WORLDWIDE |
| Filing Number: |                                 | Report:          |                          |

DISPOSABLE ABSORBENT ARTICLES HAVING A STRETCH PANEL AND AN INTEGRATED WAIST SIZE

|               |                  |             |                 |               |
|---------------|------------------|-------------|-----------------|---------------|
| Examiner:     | Inventor:        | Examiner:   | Title:          | Term:         |
| Filing Date:  | Related Info:    | CN#:        | Actions:        | Office:       |
| Action:       | Action Due Date: | Filed Date: | Completed Date: | Action Notes: |
| Issue Fee Due | ISDE2001         |             | 09A2002         |               |
| Issue Check   | 09AP2002         |             |                 |               |
| Re:           |                  |             |                 |               |

Created: 08/16/2001 Updated: 08/16/2002 8:19 AM By: KMF

[Start] [Home] [Search] [Inbox - Mail... ] [PPMaster v... ] [Registration...] [Address Book] [Logout] [8:19 AM]



Facsimile

Kimberly-Clark Worldwide, Inc.  
401 North Lake St.  
Neenah, WI 54956

| Name  | Company                | Fax Number   |
|---|------------------------|--------------|
| To: Office of Petitions   | USPTO                  | 703-308-6916 |
| <b>Subject:</b> Application No. 09/465,853 for "Disposable Absorbent Articles Having A Fit Panel And An Integrated Waist Adjustment Mechanism"<br>K-C Docket No. 15,497 |                        |              |
| From: Alyssa A. Dudkowski   | Page: 1 of 21          |              |
| Dept: Legal Department  | Date: January 14, 2003 |              |
| Loc: Kimberly-Clark Worldwide, Inc.   |                        |              |

### CERTIFICATION OF FACSMILE TRANSMISSION

I HEREBY CERTIFY THAT THE FOLLOWING PAPERS ARE BEING  
FACSIMILE TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE  
ON THE DATE SHOWN BELOW:

**Petition for Revival of an Application for Patent Abandoned  
Unintentionally Under 37 C.F.R. § 1.137(b)**

**Declaration of Facts in Support of Petition**

**FAX RECEIVED**

JAN 14 2003

Cynthia M. Trudell

**PETITIONS OFFICE**

TYPE OR PRINT NAME OF PERSON SIGNING CERTIFICATE

Cynthia M. Trudell Jan. 14, 2003

SIGNATURE

DATE

This facsimile is for the use of the addressee only and may contain privileged or confidential information that is exempt from disclosure under law. If you are not the addressee or responsible for delivering it to him or her, please know that dissemination, distribution, or copying of this facsimile is prohibited. If you have received this in error, please telephone us promptly and destroy the original.

If you have a problem with or a question about this facsimile, contact:  
**Name: Cindy M. Trudell**      **Fax: 920-721-3129**      **Phone: 920-721-2779**

**In the United States Patent and Trademark Office**

Applicants: **Laura L. Elsberg et al.** Docket No.: **15497**  
Serial No.: **09/465,853** Group: **3761**  
Confirmation No: **9404** Examiner: **J. Webb**  
Filed: **December 17, 1999** Date: **January 14, 2003**  
For: **DISPOSABLE ABSORBENT ARTICLES HAVING A FIT PANEL AND  
AN INTEGRATED WAIST ADJUSTMENT MECHANISM**

**DECLARATION OF FACTS IN SUPPORT OF  
PETITION UNDER 37 C.F.R. §1.137(b)**

This declaration is made as to facts which are relied upon in support of  
Applicants' PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. §1.137 (b).

This declaration is being made by a person having first-hand knowledge of the  
facts recited herein.

Name of declarant:

**Alyssa A. Dudkowski**

Address of declarant:

**Kimberly-Clark Worldwide, Inc.  
401 North Lake Street  
Neenah, Wisconsin 54956**

**FAX RECEIVED**

**JAN 14 2003**

**PETITIONS OFFICE**

I declare the following:

1. I am in-house patent counsel for Kimberly-Clark Worldwide, Inc., assignee of the present application.
2. The present application was filed on December 17, 1999 and assigned Serial No. 09/465,853. A Notice of Allowance was mailed on September 19, 2001. Consequently, the Issue Fee was due on December 19, 2001.
3. Applicants submitted Part B of the Issue Fee Transmittal (PTOL-85B) on November 6, 2001. As part of that submission, Applicants authorized that the Issue Fee be charged to Deposit Account Number 11-0875. A copy of Part B of the Issue Fee Transmittal and a copy of the return postcard dated January 9, 2002 are attached as Exhibit A to this Declaration.

15,497

4. A Notice of Abandonment (Paper 19) was mailed on May 17, 2002. The Notice stated that the application was abandoned because of: "Applicants failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85). ... The issue fee and publication fee, if applicable, has not been received."

5. On July 9, 2002, Applicants filed a Request for Withdrawal of Abandonment - PTO Has No Evidence that Mailed Correspondence Received along with a Statement Attesting to Mailing of PTO Correspondence Under 37 CFR §1.8(a); copies of these documents are attached as Exhibit B to this Declaration.

6. Applicants received a Decision on Petition (Paper No. 21) from the PTO on December 26, 2002. In the Decision, the Examiner indicates that Applicants' Request for Withdrawal of Abandonment was being treated as a Petition to Withdraw the Holding of Abandonment Under 37 CFR §1.181(a). The Petition was dismissed. The Decision indicated that "when an attempt was made by the Office of Finance to charge the fees on January 15, 2002, the fees were not recorded due to insufficient funds in Deposit Account No. 11-0875." A copy of the Decision is attached as Exhibit C to this Declaration.

7. Upon inquiry into the circumstances surrounding the depletion of KCWW's Deposit Account, I learned that Kimberly-Clark's Accounts Payable department sent a check to the PTO to replenish the Deposit Account, but when the check was sent, the mailing address accidentally included the name of a Kimberly-Clark employee. No such person was employed by the PTO and the check was returned. Hence, there was a period of time during which it was necessary to re-send the check- properly addressed- to the PTO.

8. While I do not have responsibility for ensuring that Kimberly-Clark's Deposit Account always contains the necessary funds, it was my intention that the Issue Fee be paid when PTOL-85 was mailed on November 6, 2001. I was not aware that the Deposit Account was or had become depleted at any time between November 6, 2001 and January 15, 2002. Therefore, the eventual abandonment of the application was unintentional.

9. A combination of a high volume of activity on the Deposit Account and the error in the mailing address resulted in the Deposit Account being low on January 15, 2002 when the PTO attempted to charge the fees.

10. As the responsible attorney for the present application, I have attempted to respond promptly and without delay to notices received from the PTO.

15,497

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: January 14, 2003 Declarant: Alyssa A. Dudkowski  
Alyssa A. Dudkowski

## **Exhibit A**

100

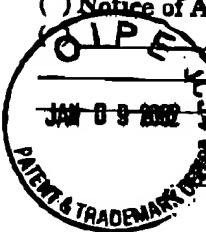
Inventor(s) Laura L Flsberg, et al.  
Serial No. 09/465,853 Docket No. 15-497  
Date Filed December 17, 1999 Attorney AAD  
Title DISPOSABLE ABSORBENT ARTICLES HAVING A STRETCH PANEL  
AND AN INTEGRATED WAIST SIZE ADJUSTMENT MECHANISM

- Amendment (in response to O.A. mailed) \_\_\_\_\_  
 Extension of Time  
 Issue Fee                                    Appeal Brief  
 PTO 1595/Assignment                          CPA Request Transmittal  
 Formal Drawings                                Information Disclosure Statement  
 Notice of Appeal                                Missing Parts of Application

FAX RECEIVED

JAN 14 2003

**PETITIONS OFFICE**



The stamp of the U.S. Patent and Trademark Office  
hereon indicates receipt of the items indicated above.

|-३।-८८

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## **Exhibit B**

\*\* TX STATUS REPORT \*\*

AS OF JUL 09 2002 14:50 PAGE.01

KC LEGAL DEPT

|    |                  |      |                      |            |                |         |          |           |
|----|------------------|------|----------------------|------------|----------------|---------|----------|-----------|
| 24 | DATE 07/09 14:49 | TIME | TO/FROM 703 305 4372 | MODE EC--S | MIN/SEC 00'59" | PGS 006 | JOB# 026 | STATUS OK |
|----|------------------|------|----------------------|------------|----------------|---------|----------|-----------|

 **Kimberly-Clark Corporation**  
 Neenah, Wisconsin  
 401 N. Lake Street  
 Neenah, Wisconsin 54956

**Facsimile**

|          | Name   | Company | Fax Number   |
|----------|--|---------|--------------|
| To:      | Tom Hawkins  | USPTO   | 703-305-4372 |
| Subject: | Application Number 09/465,853 filed December 17, 1999 of Laura L. Elsberg et al.;<br>KC Docket Number 15,497 |         |              |
|          | <b>"Disposable Absorbent Articles Having A Fit Panel And An Integrated Waist Adjustment Mechanism"</b>       |         |              |
| From:    | Alyssa A. Dudkowski  | Page:   | 1 of 6       |
| Dept:    | Legal Department   | Date:   | July 9, 2002 |
| Loc:     | Neenah, Wisconsin  | Time:   | 12:49 PM     |

Mr. Hawkins,

In response to a Notice of Abandonment, following documents are being faxed to you:

Request For Withdrawal of Abandonment - PTO Has No Evidence That  
Mailed Correspondence Received

**FAX RECEIVED**

Statement Attesting To Mailing of PTO Correspondence Under 37CFR§1.8(a)

Copy of Issue Fee Transmittal Mailed November 6, 2001

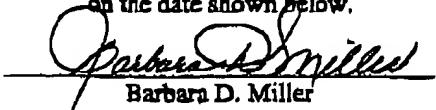
Copy of PC Master v3.04 Showing Receipt of Postcard 1/9/02

JAN 14 2003

PETITIONS OFFICE

**CERTIFICATION OF FACSIMILE TRANSMISSION**

I hereby certify that these papers are being transmitted by facsimile to the Patent and Trademark Office  
on the date shown below.



Barbara D. Miller

July 9, 2002

Date

This facsimile is for the use of the addressee only and may contain privileged or confidential information that is exempt from disclosure under law. If you are not the addressee or responsible for delivering it to him or her, please know that dissemination, distribution, or copying of this facsimile is prohibited. If you have received this in error, please telephone us promptly and destroy the original.

If you have a problem with or a question about this facsimile, contact:

Name: Barbara Miller

Fax: 920-721-3129

Phone: 920-721-2414

## **Exhibit C**



## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov

12-27-02  
KB

DEC 26 2002

Paper No. 21

AAD JEFFREY B CURTIN  
KIMBERLY-CLARK WORLDWIDE INC  
401 NORTH LAKE STREET  
NEENAH WI 54956

## COPY MAILED

DEC 18 2002

Director's Office  
Office of Patent Publication

In re Application of :  
Lara Linda Elsberg, et al. :  
Application No. 09/465,853 :  
Filed: December 17, 1999 :  
Attorney Docket No. 15497 :

## DECISION ON PETITION

FAX RECEIVED

JAN 14 2003

PETITIONS OFFICE

This is a decision on the Request for Withdrawal of Abandonment, received via facsimile transmission on July 9, 2002, which is being treated as a Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.181 (a), for the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition for Withdrawal of Holding of Abandonment."

This application was held abandoned for failure to pay the issue fee on or before the due date of December 19, 2001.

As evidence of the timely submission of the Issue Fee, petitioner has submitted a copy of the Issue Fee Transmittal, with a Certificate of Mailing dated November 6, 2001, and a statement attesting to the timely filing of the Issue Fee on November 6, 2001.

The PTO acknowledges receipt of the Issue Fee Transmittal on January 9, 2002. Unfortunately, when an attempt was made by the Office of Finance to charge the fees on January 15, 2002, the fees were not recorded due to insufficient funds in Deposit Account No. 11-0875. The petitioner therefore has not complied with 37 CFR 1.25(b), which states in part:

... An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to charged unless sufficient funds are present in the account to cover the fee.

**Application No. 09/465,853****Page 2**

In light of the non-compliance with 37 CFR 1.25(b), the holding of abandonment cannot at this time be withdrawn.

The petitioner should consider petitioning the Commissioner as follows:

File a petition for Revival of Abandoned Application or Lapsed Patent under CFR § 1.137 (a) or (b). The new rule change appears in 62 Federal Regulations, October 10, 1997 or (a) 1203 of the Official Gazette 63, October 21, 1997.

- Under 37 CFR 1.137(a), a petition for the revival of an *unavoidably* abandoned application must include the following:

- (1) The reply required to the outstanding Office action or notice, unless previously filed.
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

With respect to an application filed before June 8, 1995, any petition under § 1.137(a) that is filed more than six months after the abandonment date must—according to § 1.137(c)—be accompanied by a terminal disclaimer with disclaimer fee.

- Under 37 CFR 1.137(*b*), a petition for the revival of an *unintentionally* abandoned application must include the following:

- (1) The reply required to the outstanding Office action or notice, unless previously filed.
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (d) of this section.

**Application No. 09/465,853****Page 3**

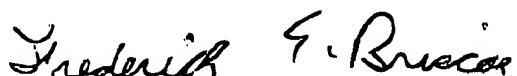
Further correspondence with respect to this matter should be addressed as follows:

*By mail:* Assistant Commissioner for Patents  
Box DAC  
Washington, DC 20231

*By facsimile:* 703-308-6916  
Attn.: Office of Petitions

*By hand:* Crystal Plaza Four, Rm. 3C23  
2201 South Park Place  
Arlington, VA

Telephone inquiries concerning this matter may be directed to the Office of Petitions at  
703-305-9282.



Frederick E. Briscoe  
Legal Instruments Examiner  
Office of the Director  
Office of Patent Publication